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U. S. v Microsoft

January 28, 2002

Hon. Colleen Kollar-Kotelly  
U.S. District Court, District of Columbia  
C/O Ms. Renata Hesse  
Antitrust Division  
United States Department of Justice  
601 D Street NW  
Suite 1200  
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly,

The Antitrust Procedures and Penalties Act, also called the Tunney Act, was passed to insure that competition and consumer choice continue in the marketplace. With regard to Microsoft, neither competition nor consumer choice seems to be a concern.

Manufacturers of computers are hamstrung as are those who use computers because they cannot install the software they prefer on their computers. Instead Microsoft, which has become a monopoly in this arena dictates what may be used. Software developers need to have complete information about Microsoft's operating system so that they can compete creating a competitive market.

Included among the concerns I have in looking at the remedy are:

- 0 Microsoft will be permitted to expand its control by bolting applications to Windows using a "commingling code". This violates antitrust law.
- 0 Some of the future applications which will undoubtedly be included are: financial, cable services as well as an expanded use of the internet.

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- 0 Microsoft is required to share technical information concerning Windows. The catch is that Microsoft itself will determine if there is any possible situation where its security or software licensing may be compromised. The likelihood that Microsoft will use this option is very high.
- 0 The manufacturers' concern is that Microsoft will have access to its intellectual properties by virtue of doing business with the software giant.
- 0 Microsoft will make decisions concerned with which companies it will share technical information as called for in the settlement. There is a clause indicating that sharing information must be reasonably necessary.
- 0 A three person technical committee will be set up to hear violations.
- 0 It is highly unlikely that a company will take on the giant when it could lose the challenge and risk retaliation in the future.
- 0 One of the three people on the committee is appointed by Microsoft; one by the Department of Justice and the third must be an individual who will be agreed to by both Microsoft and the Department of Justice. This arrangement gives an interesting advantage to Microsoft.
- 0 The findings may not be admitted into court in enforcement proceedings. Additionally the compliance is for only five years.

For the most part after all the years of investigating and litigating there will be little or no change in the way Microsoft does business. I appreciate your interest in this matter. If there is any way with which I may be of assistance, please contact me.

Sincerely,

  
Paul J. O'Sullivan

CC: Tom Reilly